

## REMARKS

Reconsideration of the above-identified application is respectfully requested.

Claims 1–5, 7, 8, 13–18 were rejected as anticipated by Blom.

1. The abstract of the Blom patent discloses only constant power during normal operation (“A circuit arrangement for operating a discharge lamp with a substantially constant power”). Where is there any disclosure of controlling current during startup?

2. MPEP §2131 loudly proclaims in boldface, uppercase letters **“TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM.”** It is respectfully submitted that the Examiner is not following this directive. In response, the Examiner alleges that the features relied on by applicant are not recited in the rejected claims.

Controlling current during startup is recited in claim 1 (“wherein the control means are adapted to control the ... current consumed by the lamp during its run-up phase”). This feature is not disclosed or suggested by the Blom patent. Therefore, there is no anticipation.

Claim 15 clearly recites controlling “the lamp power during the steady state of the lamp by fixing the on-time ( $T_{on}$ ) of the at least one power switching element.” There is nothing connected to the bases of the transistors in commutator circuit III in the Blom patent. How can the patent disclose any control, let alone constant on-time? Clearly, every element of claim 15 is not disclosed in the Blom patent. Therefore, there is no anticipation.

3. It is not proper to use claims (column 5 of the Blom patent) for rejecting claims; *In re Benno*, 226 USPQ 683 (Fed. Cir. 1985). The Examiner responds by saying “In re Benno is a [sic] case law, not statue [sic], therefore the outcome of the case does not need to be practiced in all the other applications that are submitted with the United States Patent Office.” It is respectfully submitted that the comment, if true, nullifies the entire judicial system of the United States. The United States is a “common law” country, which means that decisions by courts **are** applicable to other situations. It is strongly suggested that the Examiner consult with his supervisor or the Solicitor’s Office

if he thinks the USPTO is not subject to the decisions of the Federal Circuit. The Federal Circuit seems to think that it is. So does Congress, which gave the Federal Circuit appellate jurisdiction. In case the Examiner was not taught such in the training for new hires, there is a hierarchy of authority: 1. Constitution of the United States, 2. Federal Statutes, 3. Federal Circuit (interpreter of the statutes), 4. Rules of Practice, and 5. MPEP. Decisions by the Federal Circuit are very much controlling. The Examiner further alleges "claims are part of Blom invention." Blom did not invent claims. He invented an electronic ballast. Claims are the legal definition of the invention but they are not the invention. "The scope of a patent's claims determines what infringes the patent; it is no measure of what it discloses." The Federal Circuit has held that an applicant's claims must be rejected on the basis of disclosures in the prior art and the Examiner is bound by that decision.

Claims 1–5, 7, 8, 13–18 were rejected as anticipated by Fellows et al. A fluorescent lamp is not high pressure discharge lamp. The Fellows et al. patent does not anticipate even the preamble of the claims.

### **Claim 1 and the claims dependent thereon**

In support of the rejection the Examiner refers to column 2, lines 39–56, reproduced in part below.

"a fluorescent lamp load is coupled to the output of a variable frequency DC-AC converter or inverter. A half-bridge circuit is used in an illustrated embodiment and it is supplied with a variable frequency gating signal which is controllable in response to lamp current to obtain a substantially constant lamp current" [emphasis added].

The ballast operates at constant current. The claimed ballast operates at constant power. There is no anticipation.

The Examiner refers to column 5, lines 9–29. The referenced portion of the Fellows et al. patent does not disclose constant current during startup. On the contrary, it is disclosed that "Safeties are automatically effected in response to excessive lamp voltage or currents ...." How can there be constant current if "excessive or insufficient

currents" can occur? Constant current circuits are current limiting. There cannot be excess current. It is respectfully submitted that the Examiner's interpretation of the Fellows et al. patent is contrary to the disclosure. There is no disclosure of constant current during startup.

The Examiner refers to column 6, lines 40–58. The disclosure concerns the fact that the AC/DC converter and the DC/AC converter are synchronized, preferably operating at the same frequency. The relevance of the disclosure is not apparent.

The Examiner refers to column 8, lines 5–32 and 57+. These disclosures relate to voltage. The relevance of the disclosures is not apparent.

The Examiner refers to column 10, lines 54–64. A portion of the disclosure reads as follows.

“After ignition, ... [o]peration is then continued ... to maintain the lamp current at a substantially constant average value.

Normal operation at constant current is not being claimed. There is no anticipation.

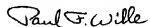
### **Claim 15 and the claims dependent thereon**

There is no disclosure in the Fellows et al. patent of a fixed on-time of at least one power switching element during steady state operation. For the reasons discussed above, the cited portions of the Fellows et al. patent are irrelevant. In FIG. 8 of the Fellows et al. patent, the inputs to flip-flop 196 are derived from voltage comparators 197 and 202. There is no circuitry for making on-time constant. There is no anticipation.

Claims 6, 10, and 12 were rejected as unpatentable over Fellows et al. in view of Lev. The disclosures alleged for the Fellows et al. patent do not exist for the reasons given above. The Lev patent overcomes none of these deficiencies.

In view of the foregoing remarks, it is respectfully submitted that claims 1–18 are in condition for allowance and a Notice to that effect is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink that reads "Paul F. Wille". The signature is written in a cursive style with a large, stylized "P" and "W".

Paul F. Wille

Reg. No. 25,274

Attorney for Applicant

Philips Intellectual Property & Standards

P.O. Box 3001

Briarcliff Manor, N.Y. 10510–8001

(914) 333–9634